

EXHIBIT 25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANNE DE LACOUR, ANDREA)
WRIGHT, and LOREE MORAN) Civil Action No. 1:16-cv-08364
individually and on)
behalf of all others)
similarly situated,)
)
Plaintiffs,)
)
vs.)
)
COLGATE-PALMOLIVE CO.,)
and TOM'S OF MAINE,)
INC.,)
)
Defendants.)
_____)

DEPOSITION OF ANDREA WRIGHT
Costa Mesa, California
Thursday, July 19, 2018

REPORTED BY: Michelle Milan Fulmer
CSR No. 6942, RPR, CRR, CRC, CLR

1 this case?

2 A Yes.

3 Q Why did you become a plaintiff in this
4 case?

5 A Because I was privy to the fact that I had
6 a product that I bought that said "natural" that I
7 found out that wasn't.

8 Q Okay. How did you become aware of what you
9 say is the fact that product you purchased says
10 "natural," but isn't?

11 A Through paperwork provided by my attorneys.

12 Q So before --

13 So is it accurate that your attorneys in
14 this case, Bursor & Fisher, reached out to you and
15 that is how you became aware that you might have
16 some concerns?

17 MR. FISHER: Object to form.

18 You can answer.

19 BY MR. CALLAHAN:

20 Q You can answer.

21 A Oh, yes.

22 Q Okay. And in what form did your attorneys
23 reach out to you?

24 A I don't remember. I don't remember if it
25 was a phone call or an email. I truly do not

1 remember.

2 Q How did your -- and but this --

3 Your attorneys reached out to you before,
4 I take it, before they -- before you became a
5 plaintiff in this case?

6 MR. FISHER: Object to form.

7 THE WITNESS: Yes.

8 BY MR. CALLAHAN:

9 Q And before you agreed to have them
10 represent you; is that right?

11 A Yes.

12 Q Okay. Who reached out to you?

13 A Someone from their office.

14 Q Someone from Bursor & Fisher.

15 Do you remember who?

16 A No. Not the original.

17 Q What did they first say to you?

18 A I don't remember.

19 Q What do you remember about what they first
20 said to you?

21 A Talking either via email or a phone call
22 and asking me about Tom's.

23 Q How -- how did the Bursor & Fisher lawyers
24 get your name?

25 A I don't know.

1 Q Did you know anybody at Bursor & Fisher
2 before they first reached out to --

3 A No.

4 Q -- you?

5 MR. FISHER: Let him finish his question.

6 THE WITNESS: Oh, sorry. Thank you.

7 BY MR. CALLAHAN:

8 Q And what is it that the Bursor & Fisher
9 lawyers first said to you, as best you can
10 remember?

11 MR. FISHER: Object to form.

12 THE WITNESS: I answer?

13 BY MR. CALLAHAN:

14 Q You can answer.

15 MR. FISHER: You can answer.

16 THE WITNESS: Okay. Asked me if I used
17 Tom's products.

18 BY MR. CALLAHAN:

19 Q Okay. And what did you say to them?

20 A Yes.

21 Q Did they say anything else, besides just
22 inquiring whether you use Tom's products?

23 A I really don't remember. I mean, it was
24 three years ago.

25 Q Okay. So sometime in 2015?

1 A That's about right.

2 Q When in 2015?

3 A I don't know.

4 Q Early? Mid? Late?

5 A I don't know.

6 Q So are you sure it was 2015, though, when
7 they first reached out?

8 A I'm absolutely positive, but it's been a
9 while.

10 Q Okay. What's your best recollection of the
11 range of dates in which the attorneys for
12 Bursor & Fisher first reached out to you to see
13 whether you used Tom's of Maine's products?

14 A I would say, at least, three years ago.

15 Q So it was, at least, as early as July of
16 2015?

17 A I don't know.

18 Q That's three years ago.

19 A Yes, but I don't know an exact date for
20 you.

21 Q I understand.

22 A Yeah.

23 Q Are you comfortable testifying that it was,
24 at least, three years ago, but perhaps further --

25 A It's possible.

1 Q -- than that?

2 A It's possible.

3 Q Okay. But you're comfortable testifying
4 that it was, at least, three years ago they reached
5 you?

6 A I -- probably. Yes.

7 Q And in this first communication that you
8 got from Bursor & Fisher, what did they communicate
9 to you?

10 MR. FISHER: Object to form.

11 THE WITNESS: Just asked me questions about
12 my use of Tom's of Maine and where I bought it.

13 BY MR. CALLAHAN:

14 Q What questions did they ask?

15 A If I used Tom's of Maine.

16 Q Okay. Do you recall if this was a phone
17 call?

18 A I recall the -- I can't remember if it was
19 an email or a phone call. Probably a phone call,
20 I'm guessing.

21 Q Somebody -- you pick up the phone, say,
22 "Hello," and they say what? "Do you use
23 Tom's of Maine products" or --

24 A Probably introduced who they were. I
25 didn't write it down.

1 again?

2 BY MR. CALLAHAN:

3 Q Sure.

4 During this first conversation you had with
5 them, at least, three years ago, what information
6 did you provide the Bursor & Fisher lawyers about
7 your use of Tom's of Maine's products?

8 A That it was --

9 MR. FISHER: Same objection.

10 THE WITNESS: That it was my deodorant of
11 choice --

12 BY MR. CALLAHAN:

13 Q Okay.

14 A -- because it said "natural" on it.

15 Q Did you tell them that?

16 A I'm sure I did.

17 Q Did you tell them that unsolicited or did
18 they ask you why you bought the product?

19 A Yeah. I don't remember. Sorry.

20 Q So you don't remember if that came up just
21 because you volunteered it or --

22 A No.

23 Q -- if they asked you?

24 A No, I don't. But I'm a breast cancer
25 survivor. So when I look for product, I look for

1 product that says "natural" on it, no synthetics,
2 organic.

3 Q What did you tell the Tom's lawyers during
4 this or the Bursor & Fisher lawyers during this
5 conversation that took place, at least, three years
6 ago with respect to how long you had been using
7 Tom's of Maine?

8 MR. FISHER: Object to form.

9 THE WITNESS: Can I ask for clarification?
10 Are you asking me how long I used, have
11 used Tom's of Maine?

12 BY MR. CALLAHAN:

13 Q So I'm actually focused on this
14 conversation that took place, at least, three years
15 ago.

16 A Okay.

17 Q What did you tell them at that time with
18 respect to how long you'd been using the product?

19 A I probably told them that I've been using
20 it for years.

21 Q Okay. And then stepping aside, stepping
22 outside of the conversation, the initial
23 conversation you had with the Bursor & Fisher
24 lawyers.

25 For what period of time have you been using

1 Tom's of Maine deodorants?

2 A I can't give you the exact number of years,
3 but for years.

4 Q At least five years?

5 A Oh, yeah.

6 Q At least ten years?

7 A Let's see. I've been -- can I think for a
8 second?

9 Q Sure. Absolutely.

10 You should -- and this is not a timed
11 exercise, by the way.

12 A Okay. Well, yeah. I mean, you know, I
13 want to give you as close a recollection as I can
14 give you, but I've lived in La Quinta for four
15 years and, prior to that, I was living in
16 San Francisco. So I was buying it when I was living
17 in San Francisco. So it's been years.

18 Q So, at least, four years?

19 A At least.

20 Q And for what period of time do you believe,
21 to your best recollection, you purchased the product
22 when you lived in San Francisco?

23 A It's -- I cannot tell you the exact amount
24 of years; but if you said ten plus, it could very
25 well be.

1 Q Okay. And at what location or locations do
2 you recall purchasing Tom's products in the
3 San Francisco area when you lived there?

4 A Usually Trader Joe, Target.

5 Q Any others?

6 A Possibly a drug store or some -- maybe
7 Walgreen's or something.

8 Q Okay. Let me go back to this initial
9 conversation with -- or this initial communication
10 since it's not clear whether it was email or
11 telephonic, the initial communication with the
12 Bursor & Fisher attorneys.

13 Did they provide you any other information
14 during that initial communication?

15 A Not that I remember.

16 Q Did you have any subsequent communications
17 with Bursor & Fisher after this first call?

18 Well, I'm sorry. Let me withdraw that
19 question and ask a different one.

20 During that first set of communications
21 with Bursor & Fisher, did you agree to have them
22 represent you as your attorneys?

23 A I think we weren't -- and I'm not positive
24 about this. I think we weren't at that stage of
25 discussion yet.

1 A I told them I thought it was.

2 Q Okay. Did they ask you any follow-up
3 questions around that, why you thought they were
4 natural, et cetera?

5 A They probably did.

6 MR. FISHER: Object to form.

7 THE WITNESS: They probably did and I'm
8 sure I said it was because it said -- oops, sorry --
9 it said "natural" on the -- on the label.

10 BY MR. CALLAHAN:

11 Q Okay. Did it --

12 Did the initial conversation with the
13 attorneys from Bursor & Fisher cause you to rethink
14 in any way whether the Tom's products were natural?

15 A Absolutely.

16 Q What, if anything, did it cause you to do?

17 A Made me change products.

18 Q Okay. So what is it that caused you,
19 following that first communication with
20 Bursor & Fisher, to rethink whether the Tom's
21 products were natural?

22 A Because it's being questioned.

23 Q By whom?

24 A By my attorneys.

25 Q Well, what did they tell you about what

1 their views were about the natural -- about whether
2 the Tom's products were natural?

3 A At that point, they didn't.

4 Q Okay. So --

5 A It was -- just made me put into doubt as to
6 whether it was as natural as they said it was.

7 Q Okay.

8 A So I switched products.

9 Q Okay. Did you take a look at what was in
10 the Tom's products at that time following your first
11 conversation with Bursor & Fisher?

12 A No.

13 Q Have you ever taken a look at what is in
14 the Tom's deodorant products?

15 A Not until recently.

16 Q When?

17 A Couple days ago.

18 Q So it was just a couple days ago, after
19 you -- years after this suit was initiated, that you
20 looked to see what ingredients were in the
21 Tom's of Maine deodorant products?

22 A Well, I'm not a chemist. So I wouldn't
23 know what is good or bad for me. I just relied on
24 the label that said it was natural.

25 Q Yeah.

1 And what did you rely on for your decision
2 to stop using the product?

3 MR. FISHER: Object to form.

4 BY MR. CALLAHAN:

5 Q Just your attorneys?

6 A That someone may -- questioned it.

7 Q Okay. So your attorneys were question --
8 your attorneys somehow in that first conversation
9 called into question whether it was a natural
10 product?

11 A Made me question it. Absolutely.

12 Q Okay. What did they say or do to cause you
13 to question whether the Tom's of Maine deodorants
14 were natural?

15 MR. FISHER: Object to form. Asked and
16 answered.

17 THE WITNESS: What did they do? Well, they
18 made me stop and think about, well, am I using
19 something that is not natural. So I stopped.

20 BY MR. CALLAHAN:

21 Q But --

22 A There are other products on the market.
23 So --

24 Q Okay. What product or products did you
25 switch to after, after you stopped using

1 Tom's of Maine?

2 A I used the Trader Joe's brand.

3 Q Why?

4 A Because it wasn't Tom's.

5 Q Do you --

6 This is just a store, a Trader Joe's store
7 brand?

8 A Yeah.

9 Q Is it -- do you know, is it called Native?
10 Do you know what the brand name is of it?

11 A No.

12 Q And have you used any deodorants other than
13 this Trader Joe's -- is it like a house brand? Is
14 that how you'd describe it?

15 A I would think so. It has "Trader Joe's" on
16 the label.

17 Q Why did you switch to that product?

18 MR. FISHER: Object to form.

19 THE WITNESS: Why did I switch to that
20 product?

21 Because it was there and -- you know, just
22 because it was there.

23 BY MR. CALLAHAN:

24 Q And do you believe that's a natural product
25 without any harmful ingredients in it?

1 A Actually, I kinda trust Trader Joe's
2 because they do a lot of organic type products.
3 So --

4 Q Have you looked at any point in time --
5 So this was sometime in July 2015 or later
6 that you switched to the Trader Joe's deodorant
7 brand?

8 A Yeah. About that.

9 Q Have you ever looked at the ingredients in
10 that product?

11 A No.

12 Q Why not?

13 A Same reason I didn't look at the
14 ingredients in Tom's.

15 Q Well, you said the reason you didn't look
16 at the ingredients in Tom's is because it said
17 "natural."

18 A That's right.

19 Q Does the Trader Joe's deodorant say that
20 it's natural?

21 A Quite honestly, I don't know. It's not
22 something I looked at.

23 Q Well, then on what basis do you believe
24 that the Trader Joe's deodorant product is natural?

25 MR. FISHER: Object to form.

1 THE WITNESS: I don't know. You know, I
2 just -- it was there and I just picked it up.

3 BY MR. CALLAHAN:

4 Q Is it important to you whether it's
5 natural?

6 A Yeah. If it says "natural," I expect it to
7 be.

8 Q Okay. But you said the Trader Joe's
9 product doesn't say it's natural.

10 A I don't know. I don't have a copy. I
11 don't have it, one with me.

12 Q Do you believe that it's natural?

13 A Like I said, I think that Trader Joe's uses
14 a lot of natural products at their store, a lot of
15 organic. So I -- I do. I kinda trust them.

16 Q Okay.

17 A I trusted Tom's.

18 Q Okay. Do you believe that everything in
19 Trader Joe's is natural?

20 MR. FISHER: Object to form.

21 BY MR. CALLAHAN:

22 Q That you can buy anything in Trader Joe's
23 and it will be natural?

24 MR. FISHER: Object to form.

25 THE WITNESS: Probably not.

1 BY MR. CALLAHAN:

2 Q Okay. How do you figure out what things in
3 Trader Joe's are or are not natural?

4 A Very often, like food products, it will say
5 "organic" or "organic carrots" or "organic cilantro"
6 or whatever it is.

7 Q Okay. What about non-food products? How
8 do you figure out for what I'd call health and
9 beauty products, how do you figure out whether
10 those products that you see at Trader Joe's are
11 natural?

12 A I don't buy a lot of that stuff there. I
13 just happened to buy this there.

14 Q When you say "this," you're pointing to --

15 A To Tom's --

16 Q -- Exhibits 10 and 11?

17 A Yeah. Tom's or the other deodorant from
18 Trader Joe's.

19 Q Okay. And have you --

20 Okay. So, I take it, you didn't, until
21 just a couple days ago, know what ingredients were
22 in the Tom's of Maine deodorant products that you
23 purchased for five or ten years?

24 A That's correct.

25 Q You know now; is that correct?

1 read -- for health, beauty or personal care
2 products, do you ever read the list of ingredients
3 on those products?

4 A Not --

5 MR. FISHER: Object to form.

6 THE WITNESS: Not normally.

7 BY MR. CALLAHAN:

8 Q Do you ever?

9 A Not normally.

10 Q I understand that you don't normally read
11 it.

12 Do you ever read the list of ingredients
13 for health, beauty or personal care products --

14 MR. FISHER: Object to form.

15 BY MR. CALLAHAN:

16 Q -- that you purchase?

17 A I'd say no.

18 Q Okay. Okay.

19 Let me ask you to -- well, let me ask this
20 question.

21 Can you pick up Exhibits 10 and 11 again,
22 the two deodorant products that you brought from
23 your home?

24 I note that while the top caps of both of
25 those products are the same --

1 A Uh-huh.

2 Q -- there -- well, one faces one way, one
3 faces the other way.

4 A Uh-huh.

5 Q Again, you have to say yes or no.

6 A Yes.

7 Q Okay. Is that --

8 Do you think that's the way you purchased
9 them or is that just you replaced one cap in a
10 backwards direction?

11 A I probably placed them in an opposite
12 direction.

13 Q Okay. So you believe that when you
14 purchased it, there was a uniform appearance of that
15 front cap?

16 A Probably, yes.

17 Q Okay. So let me ask you, what's the one in
18 your right hand right now?

19 A No aluminum.

20 Q Okay. And what exhibit number is that, if
21 you could take a look?

22 A 10.

23 Q All right. With respect to Exhibit 10,
24 is -- what are the things that you considered when
25 you purchased Exhibit 10? What are the reasons that

1 you purchased it?

2 A Natural, unscented, no aluminum.

3 Q Anything else?

4 A No.

5 Q Okay. What was it about the fact that it's
6 unscented that caused you to purchase it?

7 A I didn't want a scent.

8 Q Okay. Seems obvious, but I have to ask.

9 And what was it about the fact that it said
10 "no aluminum" that caused you to want to purchase
11 Exhibit 10?

12 A I had probably heard somewhere along the
13 line a long time ago that aluminum wasn't really
14 great.

15 Q So you were specifically looking for an
16 underarm protection product that didn't contain
17 aluminum?

18 A Not specifically. It was just there. So
19 I -- and it wasn't -- you know, I'm not reading all
20 this little fine print here. So --

21 Q Right.

22 So the fact that it had "no aluminum" was
23 one of the things that encouraged you to purchase
24 the Tom's product; is that right?

25 A No. What encouraged me more was it said

1 "natural."

2 Q Right.

3 I didn't ask more, less or the same. I'm
4 just asking for the list of things that did
5 encourage you, and is it the case that the fact
6 that Exhibit 10 said "no aluminum" on it was one of
7 the factors that encouraged you to purchase the
8 product?

9 A Yes. It was helpful.

10 Q Now, can you tell me --

11 One of the things, in fact, what you say is
12 the most important thing that caused you to purchase
13 Exhibit 10 was that it says "natural"?

14 A Yes.

15 Q Can you show me where on the label it says
16 "natural"?

17 A Right there.

18 Q Okay. So it's that word just above the
19 "24-hour odor protection" that caused you to --
20 principally caused you to purchase Exhibit 10; is
21 that right?

22 A Yes.

23 Q What did you understand natural to mean?

24 A To me it meant organic, natural, no
25 synthetic type stuff, I mean.

1 Q Anything else?

2 A No. That's about it.

3 Q So natural to you means organic and no
4 synthetic type stuff?

5 A Uh-huh.

6 Q All right. And when you say "synthetic
7 type stuff," what is that? What do you consider to
8 be synthetic?

9 A For me it means that it's -- when something
10 says "natural," it means just a natural product,
11 that it doesn't contain lots of chemicals and --
12 yeah.

13 Q Okay. I guess I'm -- my question -- and I
14 appreciate your answer.

15 My question is really, what do you
16 understand to be something that's synthetic?

17 A Well --

18 MR. FISHER: Object to form.

19 THE WITNESS: -- like I say, I'm not a
20 chemist. So I don't know what goes into things that
21 makes them synthetic. I suppose, they make
22 petroleum type stuff. I don't know.

23 BY MR. CALLAHAN:

24 Q Okay. Anything else, other than no
25 petroleum?

1 A No, not that I know of.

2 Q Okay. All right. And is it accurate that
3 in the five to ten or perhaps more years that you
4 used Tom's of Maine products, you never looked at
5 the back label of the product?

6 A Huh-uh.

7 Q You have to answer yes or no.

8 A Oh, sorry. No.

9 Q No, you've never looked at the back --

10 A I never --

11 Q -- label of the product?

12 A Yeah.

13 MR. FISHER: Let him finish his question.

14 THE WITNESS: Yeah.

15 MR. FISHER: And don't talk over one
16 another.

17 THE WITNESS: Sorry. Thank you.

18 BY MR. CALLAHAN:

19 Q Did you ever --

20 Have you ever visited the Tom's of Maine
21 website?

22 A No.

23 Q Okay. Have you ever purchased any other
24 Tom's of Maine products?

25 A No.

CERTIFICATION OF COURT REPORTER

FEDERAL JURAT

I, the undersigned, a Certified Shorthand Reporter of the State of California do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

That before completion of the deposition, a review of the transcript was not requested.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name: Date: August 2, 2018.



Michelle Milan Fulmer

CSR 6942, RPR, CRR CLR